

Appl. No. 09/939,166
Amdt. Date September 15, 2004
Response to Office Action dated April 15, 2004

REMARKS

- ***Oath or Declaration***

In the Examiner's April 15, 2004, the Examiner noted that the original oath or declaration was defective and required a new oath or declaration complying with 37 C.F.R. § 1.67(a). The original oath or declaration, in fact, was not even submitted in *complete* form because the department did not receive the page signed by Keith Heaton, Kenneth Hunt, and Mark Beard until August 28, 2001, four days after the application was filed. Enclosed is a copy of the *complete* original oath or declaration, including all the necessary signatures. It does not identify the application by application number or filing date because some of the signatures were obtained *before* the application was filed, and thus the application number and filing date were not known. Applicants respectfully request acceptance of the original oath or declaration.

- ***Section 112 rejections***

The Examiner rejected claims 8 and 9 for improper dependence from a cancelled claim. The Examiner also rejected claim 19 and its dependent claims because in claim 19, there was no antecedent basis for "said means for applying negative pressure." Applicants have amended claims 8 and 9 to depend from claim 1 and claim 19 to substitute "electric pump" for "means for applying negative pressure." Applicants thank the Examiner for identifying these obvious typographical errors.

- ***Section 103(a) rejections***

The Examiner rejected all of the pending claims over various combinations of EP 0777504 to Lina et al., GB 2,307,180 to Hunt, US 6,235,039 to Parkin et al., and U.S. 5,637,093 to Hyman et al. Applicants respectfully traverse these rejections in light of the amendments made to the claims.

Appl. No. 09/939,166
Amdt. Date September 15, 2004
Response to Office Action dated April 15, 2004

o ***Rejection of claims 1-5, 7-8, and 10-12***

The Examiner stated that “[w]hile Lina may teach using only one filter 46 there is no unobviousness to duplicate the filter to insure a higher degree of filtration of fluids from the site.” OA, at 3. Likewise, the Examiner stated that while “Hunt may teach using only one filter 109 there is no unobviousness to duplicate the filter to insure a higher degree of filtration of fluids from the site.” OA, at 5.

Applicants have amended claim 1 to recite that the first filter is a *hydrophobic* filter and that the second filter is an *odor vapor* filter. Page 8, lines 9-13 provide support for this amendment. The principle that “mere duplication of the essential working parts of a device involves only routine skill in the art” does not apply, because an *odor vapor* filter is not necessarily a duplicate of a *hydrophobic* filter.

Applicants respectfully submit that this amendment puts claim 1 and its dependent claims in condition for allowance over the cited references. Applicants also amended claim 1 to substitute “electric pump” for the previously recited “means for applying negative pressure.” This amendment corrects a typographical error similar to the one noted by the Examiner in claim 19.

Applicants amended claim 2 to make it consistent with the amendments made to claim 1 and also consistent with page 8, lines 16-20 of the specification.

o ***Rejection of dependent claims 3, 12, 16, 29, and 30***

With respect to dependent claims 3, 16, and 29, which recited “means for sampling wound fluids,” the Examiner stated that “removable canister 19 would provide easy access for sampling wound fluids and would appear to comprehend the claimed limitations.” OA at 3, 5.

Appl. No. 09/939,166
Amdt. Date September 15, 2004
Response to Office Action dated April 15, 2004

With respect to claim 12, the Examiner stated that "the drainage conduit 126 is resealably connected to the canister for sampling fluids."

Applicants have amended claims 3, 16, and 29 to substitute explicit structure for the previously recited "means plus function" claim language. Applicants respectfully submit that under Federal Circuit law on interpretation of means-plus-function limitations, these amendments do not materially change the scope of the claim. Nevertheless, it is readily apparent that the cited references do not disclose an "access port connected to" the drainage conduit "and having a resealable membrane operable to maintain a seal after being punctured." These limitations further distinguish claims 3, 16, and 29 from the cited prior art references.

Applicants have also amended claims 12 and 30 to recite that the access port comprises an "appendage" of the drainage conduit, as set forth in page 8, lines 25-27 of the specification. These limitations further distinguish these claims from the cited prior art references.

o *Rejection of claims 4, 5, 17 and 19*

The Examiner rejected claims 4, 17, and 19, which recited "means for securing said system to a stationary object," over Lina for teaching "a handle 14 for securing the device to a hospital bed." OA, at 3.

Applicants have amended claims 4, 17, and 19 to substitute explicit *pole-clamp* structure for the previously recited "means plus function" claim language. Applicants respectfully submit that under Federal Circuit law on interpretation of means-plus-function limitations, these amendments do not materially change the scope of the claim. Applicants have similarly amended claim 5 to include an explicit pole-clamp limitation. It is clear that Lina's "handle 14" is not a *clamp* for securing the system to a *pole*. Therefore, the recited limitation further distinguishes claims 4, 5, 17, and 19 from the prior art.

Appl. No. 09/939,166
 Amdt. Date September 15, 2004
 Response to Office Action dated April 15, 2004

○ ***Amendment of claims 9, 13, 19, 31, and 40 with respect to “power management” limitation***

Applicants have amended several claims – including independent claims 13, 19, and 31 – that previously recited “means for managing a power supply” or that recited the function of “preventing electric power from reaching an electric motor until sufficient power has been generated to activate said motor” to more closely conform to the specification. A representative form of the limitation is as follows:

a power management motor control that determines a tentative motor drive power for reaching a target pressure and which withholds electric power from the electric motor unless the tentative motor drive power is sufficient to activate said electric motor.

Support for these amendments is provided by Fig. 4a; page 10, lines 1-19; and page 5, lines 6-9. Applicants believe that these limitations distinguish the claims that have them, and their dependent claims, from the cited prior art references.

○ ***Rejection of claims 36-40***

With respect to independent claim 36, the Examiner noted that Lina’s “microcontroller outputs a voltage between 0 and 12 VDC to pump motor to control its speed.” Applicants have amended claim 36 to specify “a variable frequency pump” and to substitute a “control system to determine an optimum drive frequency for driving the variable frequency pump in order to maximize pump flow rate” for the previously recited “means for maximizing pump flow rate over a pressure range.” Applicants do not believe that these amendments actually affect the claim scope, given the manner in which means plus function claims are construed. But it is clear that Lina does not disclose a variable frequency pump, nor does it disclose a control system to determine an optimum drive frequency for driving the variable frequency pump. Thus, it is

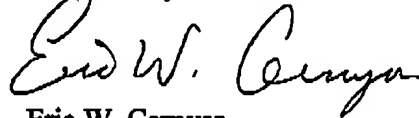
Appl. No. 09/939,166
Amdt. Date September 15, 2004
Response to Office Action dated April 15, 2004

respectfully submitted that claim 36 and its dependent claims define over the cited prior art references.

CONCLUSION

In light of the foregoing amendments and remarks, Applicants respectfully request withdrawal of the section 103(a) and 112 grounds of rejection. Believing that all matters raised in the Examiner's April 15, 2004, Office Action, have been addressed, Applicants respectfully ask that the claims be allowed and passed to issue.

Respectfully submitted,



Eric W. Cernyar
Reg. No. 45,919
8023 Vantage Drive
San Antonio, Texas 78230
(210) 863-0063 (cell phone)
(210) 255-6969 (facsimile)